



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

November 11, 2014

1411-VS-14

Exhibit 1

**Petition Number:** 1411-VS-14

**Subject Site Address:** 140 E 161<sup>st</sup> Street (the "Property")

**Petitioner:** James Meyers (the "Petitioner")

**Representative:** Curtis J. Butcher

**Request:** The Petitioner is requesting multiple Variances of Standard from the Westfield-Washington Unified Development Ordinance (the "UDO") for the property commonly known as 140 E 161<sup>st</sup> Street, Westfield, Indiana 46074. The request is to allow: (i) a reduction in the Minimum Lot Area (*Article 4.2(C)*); (ii) a reduction in the Minimum Lot Frontage (*Article 4.2(D)*); (iii) a reduction in the Side Yard Minimum Building Setback Lines (*Article 4.2(E)*); and (iv) the total square footage of Accessory Buildings to exceed the Principal Building's square footage (*Article 6.1(B)(2)*).

**Current Zoning:** Agriculture – Single Family 1 (AG-SF1) District

**Current Land Use:** Residential

**Approximate Acreage:** 1.75 acres

**Exhibits:**

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Site Plan
5. Statement of Intent
6. Petitioner's Application

**Staff Reviewer:** Andrew Murray

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**Petition History**

This Variance of Standards request is the result of an existing land use violation that was brought to the Economic and Community Development Department's (the "Department") attention by neighbors. The Department initially inspected the property in April of last year. On July 10, 2014, the Department cited the Petitioner for a land use violation for operation a construction business (the "Use") on the Property. On August 25, 2014, the Department performed an inspection of the Property to confirm the Petitioner has ceased the operation of the Use. The Department confirmed the Petitioner had relocated the Use to



another community as well as cleaned up the Property and removed all equipment and materials related to the Use. During this enforcement process, the Department also identified that the existing lot (which the Petitioner acquired in 1995) and existing accessory structures on the Property do not comply with the AG-SF1 District's standards. As a result, the Petitioner, in working with the Department, has made the necessary application to address these other zoning violations through the variance process.

### **Analysis**

**Location:** The Property is 1.75 acres +/- in size and located on the north side of 161<sup>st</sup> Street, between Oak Ridge Road and Spring Mill Road. The Property is zoned AG-SF1: Agriculture /Single Family Rural District ("AG-SF1"). The surrounding properties include: the Countryside Subdivision (single-family detached dwellings) to the north; large lot residential and agricultural ground to the east; large lot residential home and church to the south across 161<sup>st</sup> Street; and undeveloped agricultural land to the west.

The Property currently contains a single family home occupied by the Petitioner. A chicken coop and chicken run, detached garage, pool house and one story barn are additional existing improvements to the Property.

**Variance Request:** The Petitioner has filed this variance request to ameliorate numerous zoning violations existing on the Property. As such the Petitioner is requesting the following variances:

**Minimum Lot Area (Article 4.2(C)):** The standard for Minimum Lot Area in the AG-SF1 District is three (3) acres. The Property is currently 1.75 acres. The Petitioner is requesting the Minimum Lot Area for the Property to be 1.75 acres. The history of the Property is summarized in the Petitioner's Statement of Intent (see **Exhibit 5**).

**Minimum Lot Frontage (Article 4.2(D)):** The standard for Minimum Lot Frontage on a Road in the AG-SF1 District is two hundred and fifty (250) feet. The Property currently has one hundred and sixty (160) feet. The Petitioner is requesting a Minimum Lot Frontage on a Road of one hundred and sixty (160) feet.

**Minimum Side Yard Building Setback Line (Article 4.2(E)):** The standard for Side Yard Minimum Building Setback Line in the AG-SF1 District is thirty (30) feet. As depicted on the Site Plan (see **Exhibit 4**), the existing detached garage is approximately thirteen (13) feet from the west Property line and the pool house is approximately twenty four (24) feet from the east Property line. The Petitioner is requesting a reduction in the Minimum Building Setback Line to thirteen (13) feet for the Property's west Side Yard and twenty four (24) feet for the Property' east Side Yard.

**Accessory Building Bulk (square footage) Subordinate to Principal Building (Article 6.1(B)(2)):** Accessory Buildings are required to be "subordinate in height, width, length and bulk to the



Principal Building on the same Lot". Bulk has been consistently applied by the Department as gross square footage. The Principal Building on the Property, which is the Single-Family Dwelling Unit, is 2,850 square feet in size. The square footages of Accessory Buildings on the Property are as follows: (i) detached garage – 595 square feet; (ii) one story barn – 2,677 square feet; (iii) pool house – 1,037 square feet; and (iv) chicken coop – 187 square feet. The total square footage of all Accessory Buildings is 4,496 square feet. The total square footage of Accessory Buildings exceeds the Principal Building by 1,646 square feet. As a result, the Petitioner is requesting the bulk of the Accessory Buildings be permitted to exceed that of the Principal Building.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies this Property within the "Suburban Residential" land use classification. The Comprehensive Plan notes appropriate land uses to be residential uses which include detached dwellings and attached dwellings. Development policies include: (i) protection of existing suburban character of the area; (ii) ensure that infill development is compatible in mass, scale, density, materials and architectural style; and (iii) ensure proper buffering to existing suburban residential development.

Thoroughfare Plan: A part of the Comprehensive Plan is the Thoroughfare Plan, which is designed to support and facilitate the City's efforts to provide for safe and effective transportation systems within the Township. As such, each major thoroughfare in the Township is classified, based on anticipated future growth. 161<sup>st</sup> Street is designated on the Thoroughfare Plan as a "Primary Arterial", which is the highest classification for a major thoroughfare. The Thoroughfare Plan provides that a Primary Arterial could be up to a half right-of-way of seventy-five (75) feet in order to accommodate future improvements. For reference, the existing half right-of-way adjacent to the Property is seventeen (17). The existing improvements are located outside of the potential future right-of-way.

Spring Mill Station Plan: The Spring Mill Station Plan (the "Plan"), an addendum to the Comprehensive Plan adopted by the Council in April 2014, identified a geographic study area (named "Spring Mill Station") generally located at the four corners of the intersection of Spring Mill Road and 161<sup>st</sup> Street. Among other objectives, the Plan places an emphasis on accessibility by multiple modes of transportation. Although the Property is located just outside the boundaries of Spring Mill Station, the Department shared this Petition with the Spring Mill Station Task Group<sup>1</sup> (the "SMS Task Group"). As a result of that review, the SMS Task Group encouraged the City's and Petitioner's consideration for the dedication of the appropriate right-of-way to facilitate trail connectivity in the area. The dedication of right-of-way to facilitate this trail connectivity is

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<sup>1</sup> Pursuant to the Spring Mill Station Plan, the Spring Mill Station Task Group is a group contemplated as a neighborhood land use committee that will, among other things, review proposed zoning petitions and provide recommendations regarding projects to City representatives.



consistent with the City's efforts to close gaps with existing trails, one of which falls along the north side of 161<sup>st</sup> Street through the Property, between Spring Mill Road and Oak Ridge Road.

### **Procedural**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standards. This petition is scheduled to receive its public hearing at the November 11, 2014, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

**Variance of Development Standard:** The Board of Zoning Appeals shall approve or deny variances from the development standards of the Unified Development Ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

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### **Recommendation**

If the Board finds the application of the terms of the zoning ordinance would result in practical difficulties in the use of the Property and adjacent property values will not be affected in a substantially adverse manner, then the Department recommends approving 1411-VS-14 with the following condition and findings:

#### **Recommended Conditions (Completed within 30 days following determination made by the Board):**

1. That the Petitioner dedicates a forty (40) foot half right-of-way along the Property's 161<sup>st</sup> Street frontage to the City of Westfield; and
2. The exterior building materials for all structures shall be a finished siding material that is consistent and compatible with the Principal Building (e.g. wood, fiber cement).

#### **Recommended Findings for Approval:**

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*



**Finding:** It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the proposed residential use and the resulting parcel will otherwise comply with the applicable standards of the AG-SF1 District.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

**Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the use is permitted and the Property will be used for its current residential use; (ii) the Property will otherwise comply with the applicable standards of the AG-SF1 District; and (iii) the approval of the variance(s) will allow for the continued use and improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

**Finding:** Strict adherence to the zoning ordinance would result in a financial hardship for the Petitioner and a hardship to Property creating the inability to improve or sell the Property. The use is permitted by the zoning ordinance.